

Adopted	Rejected
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COMMITTEE REPORT

YES:	20
NO:	1

MR. SPEAKER:

*Your Committee on Ways and Means, to which was referred House Bill 1303, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Page 7, between lines 37 and 38, begin a new paragraph and insert:
- 2 "SECTION 4. IC 6-1.1-37-9, AS AMENDED BY P.L.219-2007,
- 3 SECTION 81, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 JANUARY 1, 2009 (RETROACTIVE)]: Sec. 9. (a) This section
- 5 applies when:
- 6 (1) an assessment is made or increased after the date or dates on
- 7 which the taxes for the year for which the assessment is made
- 8 were originally due;
- 9 (2) the assessment upon which a taxpayer has been paying taxes
- 10 under IC 6-1.1-15-10(a)(1) or IC 6-1.1-15-10(a)(2) while a
- 11 petition for review or a judicial proceeding has been pending is
- 12 less than the assessment that results from the final determination
- 13 of the petition for review or judicial proceeding; or
- 14 (3) the collection of certain ad valorem property taxes has been

1 enjoined under IC 33-26-6-2, and under the final determination of
2 the petition for judicial review the taxpayer is liable for at least
3 part of those taxes.

4 (b) Except as provided in subsections (c) and (g), a taxpayer shall
5 pay interest on the taxes the taxpayer is required to pay as a result of an
6 action or a determination described in subsection (a) at the rate of ten
7 percent (10%) per year from the original due date or dates for those
8 taxes to:

- 9 (1) the date of payment; or
- 10 (2) the date on which penalties for the late payment of a tax
11 installment may be charged under subsection (e) or (f);
12 whichever occurs first.

13 (c) Except as provided in subsection (g), a taxpayer shall pay
14 interest on the taxes the taxpayer is ultimately required to pay in excess
15 of the amount that the taxpayer is required to pay under
16 IC 6-1.1-15-10(a)(1) while a petition for review or a judicial
17 proceeding has been pending at the overpayment rate established under
18 Section 6621(c)(1) of the Internal Revenue Code in effect on the
19 original due date or dates for those taxes from the original due date or
20 dates for those taxes to:

- 21 (1) the date of payment; or
- 22 (2) the date on which penalties for the late payment of a tax
23 installment may be charged under subsection (e) or (f);
24 whichever occurs first.

25 (d) With respect to an action or determination described in
26 subsection (a), the taxpayer shall pay the taxes resulting from that
27 action or determination and the interest prescribed under subsection (b)
28 or (c) on or before:

- 29 (1) the next May 10; or
- 30 (2) the next November 10;
31 whichever occurs first.

32 (e) A taxpayer shall, to the extent that the penalty is not waived
33 under section **10.1**, 10.5, or 10.7 of this chapter, begin paying the
34 penalty prescribed in section 10 of this chapter on the day after the date
35 for payment prescribed in subsection (d) if:

- 36 (1) the taxpayer has not paid the amount of taxes resulting from
37 the action or determination; and
- 38 (2) the taxpayer either:

1 (A) received notice of the taxes the taxpayer is required to pay
 2 as a result of the action or determination at least thirty (30)
 3 days before the date for payment; or

4 (B) voluntarily signed and filed an assessment return for the
 5 taxes.

6 (f) If subsection (e) does not apply, a taxpayer who has not paid the
 7 amount of taxes resulting from the action or determination shall, to the
 8 extent that the penalty is not waived under section **10.1**, 10.5, or 10.7
 9 of this chapter, begin paying the penalty prescribed in section 10 of this
 10 chapter on:

11 (1) the next May 10 which follows the date for payment
 12 prescribed in subsection (d); or

13 (2) the next November 10 which follows the date for payment
 14 prescribed in subsection (d);

15 whichever occurs first.

16 (g) A taxpayer is not subject to the payment of interest on real
 17 property assessments under subsection (b) or (c) if:

18 (1) an assessment is made or increased after the date or dates on
 19 which the taxes for the year for which the assessment is made
 20 were due;

21 (2) the assessment or the assessment increase is made as the result
 22 of error or neglect by the assessor or by any other official
 23 involved with the assessment of property or the collection of
 24 property taxes; and

25 (3) the assessment:

26 (A) would have been made on the normal assessment date if
 27 the error or neglect had not occurred; or

28 (B) increase would have been included in the assessment on
 29 the normal annual assessment date if the error or neglect had
 30 not occurred.

31 SECTION 5. IC 6-1.1-37-10, AS AMENDED BY P.L.3-2008,
 32 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JANUARY 1, 2009 (RETROACTIVE)]: Sec. 10. (a) Except as
 34 provided in sections **10.1**, 10.5, and 10.7 of this chapter, if an
 35 installment of property taxes is not completely paid on or before the
 36 due date, a penalty shall be added to the unpaid portion in the year of
 37 the initial delinquency. The penalty is equal to an amount determined
 38 as follows:

- 1 (1) If:
- 2 (A) an installment of real property taxes is completely paid on
- 3 or before the date thirty (30) days after the due date; and
- 4 (B) the taxpayer is not liable for delinquent property taxes first
- 5 due and payable in a previous installment for the same parcel;
- 6 the amount of the penalty is equal to five percent (5%) of the
- 7 amount of delinquent taxes.
- 8 (2) If:
- 9 (A) an installment of personal property taxes is completely
- 10 paid on or before the date thirty (30) days after the due date;
- 11 and
- 12 (B) the taxpayer is not liable for delinquent property taxes first
- 13 due and payable in a previous installment for a personal
- 14 property tax return for property in the same taxing district;
- 15 the amount of the penalty is equal to five percent (5%) of the
- 16 amount of delinquent taxes.
- 17 (3) If subdivision (1) or (2) does not apply, the amount of the
- 18 penalty is equal to ten percent (10%) of the amount of delinquent
- 19 taxes.
- 20 (b) With respect to property taxes due in two (2) equal installments
- 21 under IC 6-1.1-22-9(a), on the day immediately following the due dates
- 22 of the first and second installments in each year following the year of
- 23 the initial delinquency, an additional penalty equal to ten percent (10%)
- 24 of any taxes remaining unpaid shall be added. With respect to property
- 25 taxes due in installments under IC 6-1.1-22-9.5, an additional penalty
- 26 equal to ten percent (10%) of any taxes remaining unpaid shall be
- 27 added on the day immediately following each date that succeeds the
- 28 last installment due date by:
- 29 (1) six (6) months; or
- 30 (2) a multiple of six (6) months.
- 31 (c) The penalties under subsection (b) are imposed only on the
- 32 principal amount of the delinquent taxes.
- 33 (d) If the department of local government finance determines that
- 34 an emergency has occurred which precludes the mailing of the tax
- 35 statement in any county at the time set forth in IC 6-1.1-22-8.1, the
- 36 department shall establish by order a new date on which the installment
- 37 of taxes in that county is due and no installment is delinquent if paid by
- 38 the date so established.

(e) If any due date falls on a Saturday, a Sunday, a national legal holiday recognized by the federal government, or a statewide holiday, the act that must be performed by that date is timely if performed by the next succeeding day that is not a Saturday, a Sunday, or one (1) of those holidays.

(f) Subject to subsections (g) and (h), a payment to the county treasurer is considered to have been paid by the due date if the payment is:

(1) received on or before the due date by the county treasurer or a collecting agent appointed by the county treasurer;

(2) deposited in United States first class mail:

(A) properly addressed to the principal office of the county treasurer;

(B) with sufficient postage; and

(C) postmarked by the United States Postal Service as mailed on or before the due date;

(3) deposited with a nationally recognized express parcel carrier and is:

(A) properly addressed to the principal office of the county treasurer; and

(B) verified by the express parcel carrier as:

(i) paid in full for final delivery; and

(ii) received by the express parcel carrier on or before the due date;

(4) deposited to be mailed through United States registered mail, United States certified mail, or United States certificate of mailing:

(A) properly addressed to the principal office of the county treasurer;

(B) with sufficient postage; and

(C) with a date of registration, certification, or certificate, as evidenced by any record authenticated by the United States Postal Service, on or before the due date; or

(5) made by an electronic funds transfer and the taxpayer's bank account is charged on or before the due date.

For purposes of this subsection, "postmarked" does not mean the date printed by a postage meter that affixes postage to the envelope or package containing a payment.

(g) If a payment is mailed through the United States mail and is physically received after the due date without a legible correct postmark, the person who mailed the payment is considered to have made the payment on or before the due date if the person can show by reasonable evidence that the payment was deposited in the United States mail on or before the due date.

(h) If a payment is sent via the United States mail or a nationally recognized express parcel carrier but is not received by the designated recipient, the person who sent the payment is considered to have made the payment on or before the due date if the person:

(1) can show by reasonable evidence that the payment was deposited in the United States mail, or with the express parcel carrier, on or before the due date; and

(2) makes a duplicate payment within thirty (30) days after the date the person is notified that the payment was not received.

SECTION 6. IC 6-1.1-37-10.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: **Sec. 10.1. (a)**

This section applies only to:

(1) property taxes first due and payable before January 1, 2009, with respect to a tract or an item of real property (other than real property classified as industrial property under the rules of the department of local government finance); and

(2) penalties added to a delinquent property tax installment under section 10 of this chapter before January 1, 2009.

(b) The county treasurer shall waive all penalties added to a delinquent property tax installment if all the delinquent taxes and

1 **special assessments on the tract or item of real property are paid**
2 **before July 1, 2010."**

3 Renumber all SECTIONS consecutively.
 (Reference is to HB 1303 as introduced.)

and when so amended that said bill do pass.

Representative Crawford